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Attorney for Defendant  
MONLETO HOLLY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	No. CR08-0469 SBA
	)	
Plaintiff,	)	STIPULATED EX PARTE MOTION
	)	TO CONTINUE HEARING ON
vs.	)	MOTION TO REVOKE SUPERVISED
	)	RELEASE and <del>PROPOSED</del> ORDER
MONLETO HOLLY,	)	
	)	
Defendant.	)	Court: Judge Armstrong
_____	)	

Based on the declaration of Counsel Mark Rosenbush filed herewith and the stipulation of the United States Attorney, by Assistant United States Attorney Will Frentzen, defendant MONLETO HOLLY hereby moves the Court, on an *ex parte* basis pursuant to Criminal Local Rule 47-3, to continue the hearing on the motion to revoke Mr. Holly's supervised release from

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*Holly: Mot. Continue*

September 16, 2014, to January 6, 2015, at 10:00 a.m. This continuance is requested in order to facilitate resolution of this matter.

Dated: September 12, 2014.

/s/ Mark Rosenbush

MARK ROSENBUSH  
Attorney for Defendant  
MONLETO HOLLY

**IT IS SO STIPULATED**

Dated: September 12, 2014.

/s/ Will Frentzen

WILL FRENTZEN  
Assistant United States Attorney

**IT IS SO ORDERED.**

Dated: September \_\_\_\_\_<sup>15</sup>, 2014.



Hon. SAUNDRA BROWN ARMSTRONG  
United States District Judge

**DECLARATION OF COUNSEL**

I, Mark Rosenbush, state the following:

1. I have been appointed by the Court to represent defendant Monleto Holly in this matter, as well as Mr. Holly's contemporaneous pending criminal case.

2. Mr. Holly is presently charged by indictment, in case number CR14-0238 RS, with one count of felon in possession of a firearm in violation of 18 U.S.C. section 922(g). That case involves Mr. Holly's alleged possession of a firearm on March 25, 2014, in San Francisco, when he was arrested by officers of the San Francisco Police Department. Mr. Holly's revocation matter (this Form 12 proceeding) and the pending criminal matter are based on the same March 25, 2014, transaction.

3. Mr. Holly has entered a plea of guilty in the criminal case and is set for sentencing in December of 2014. The parties agree that once Mr. Holly is sentenced in the new criminal

*Holly: Mot. Continue*

1 case, Mr. Holly will admit the currently pending Form 12 violations, and present the matter to  
2 this Court for sentencing. The parties are jointly requesting January 6, 2014 at 10 a.m. for that  
3 appearance. Based on agreement of the parties, and discussions with the Magistrate at previous  
4 callings of this matter, the Form 12 has been trailing disposition of the new criminal charge. The  
5 parties, and presumably Probation, intend to brief this matter for the Court prior to the requested  
6 date.

7 4. I have discussed this motion with the AUSA assigned to this matter, Will  
8 Frentzen, and he indicated the government stipulates to a continuance to January 6, and  
9 authorized me to so represent on his behalf in this motion.

10 I declare, under penalty of perjury under the laws of the United States, that the foregoing  
11 is true and correct. Executed this 12th day of September, 2014, in San Francisco, California.

12  
13 \_\_\_\_\_ /s/ Mark Rosenbush

14 MARK ROSENBUSH  
15 Attorney for Defendant  
16 MONLETO HOLLY

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 The Criminal Local Rules state:

19 *An ex parte* motion is a motion filed and submitted for immediate determination  
20 by the assigned Judge without giving an opposing party the amount of advance  
21 notice which is otherwise required by statute, federal rule or local rule. Unless  
22 relieved by these local rules or by order of a Judge for good cause shown or unless  
23 being filed under seal pursuant to a statute or federal or local rules, a party making  
24 an *ex parte* motion shall nevertheless give reasonable advance notice of the  
25 motion to an opposing party.

26 Northern Dist. of Cal. Crim Local. Rules, Rule 47-3(a). Motions to continue are not specifically  
27 authorized under the local rules as motions for which relief may be sought on an *ex parte* basis.  
28 Leave of the Court is therefore required before a continuance motion can be submitted and  
decided pursuant to Rule 47-3. Defendant hereby requests that the Court decide this matter on an  
*ex parte* basis. The parties previously discussed the matters addressed herein and agree that due

*Holly: Mot. Continue*

1 to the immediacy of the hearing date, and the continuing pendency of the related criminal case, as  
2 well as the parties' agreement on the matter, a hearing on this motion is not necessary.

3 In deciding whether to grant a defendant's motion to continue, the Court must consider,  
4 among other factors, (1) the extent of the defendants' diligence in readying the defense; (2) the  
5 likelihood that the requested continuance would satisfy the defendant's needs; (3) the  
6 inconvenience to the court, the opposing party, and witnesses; and (4) the extent to which the  
7 defendant may be prejudiced by denial of the requested continuance. See *United States v. Tham*,  
8 960 F.2d 1391 (9th Cir. 1992).

9 Mr. Holly and the government agree that a continuance of Mr. Holly's revocation matter  
10 is appropriate in order to allow Mr. Holly to be sentenced on the new criminal case before the  
11 hearing on the revocation of supervised release matter. The parties believe that resolving the new  
12 case first will both facilitate and inform sentencing on this Form 12 proceeding, and thereby  
13 preserve both the Court's and the parties' resources.

14 For the foregoing reasons, Mr. Holly requests that the Court continue the hearing on this  
15 matter to January 6, 2015, at 10:00 a.m.

16 Dated: September 12, 2014.

Respectfully Submitted,

17 /s/ Mark Rosenbush

18 MARK ROSENBUSH  
19 Attorney for Defendant  
20 MONLETO HOLLY  
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28 *Holly: Mot. Continue*